

AMENDED IN SENATE JULY 1, 2010
AMENDED IN ASSEMBLY APRIL 29, 2010
AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2297

Introduced by Assembly Member Brownley

February 18, 2010

An act to amend Section 76140 of, *and to add Section 76140.3 to*, the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 2297, as amended, Brownley. Community colleges: nonresident fees.

(1) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law also authorizes the establishment of community college districts, and further authorizes the operation, by these districts, of community college campuses that offer instructional services throughout the state.

Existing law requires a community college district to charge a nonresident tuition fee to nonresident students, with certain exceptions. Existing law requires the fee to be set according to one of 4 formulas, one of which divides the expense of education in all districts by the number of full-time equivalent students, as defined, attending all districts in the preceding fiscal year.

This bill would provide that if the amount calculated by this formula for the succeeding fiscal year is less than a specified amount, then the

district is authorized to set the nonresident tuition fee at a specified amount.

(2) Existing law requires the governing board of a community college district to consider nonresident tuition fees of public community colleges in other states when adopting a tuition fee for nonresident students.

This bill would delete the requirement that the governing board of a community college district consider nonresident tuition fees of public community colleges in other states, and instead authorize the governing board to adopt a nonresident tuition fee that is no greater than the average of the nonresident tuition fees of public community colleges of no less than 12 states with comparable cost of living, as defined.

This bill would require the additional revenue generated by the increased nonresident tuition permitted under the changes to existing law made by this bill to be used to expand and enhance services to resident students, and would prohibit the admission of nonresident students from coming at the expense of resident enrollment.

(3) *This bill would require the Chancellor's Office of the California Community Colleges to make specified data relating to nonresident tuition available to the Legislative Analyst's Office, and would require the Legislative Analyst's Office to include a summary of this data in its annual analysis of the Governor's budget proposal.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 76140 of the Education Code is amended
2 to read:
3 76140. (a) A community college district may admit and shall
4 charge a tuition fee to nonresident students. The district may
5 exempt from all or parts of the fee any person described in
6 paragraph (1), (2), or (3):
7 (1) All nonresidents who enroll for six or fewer units.
8 Exemptions made pursuant to this paragraph shall not be made on
9 an individual basis.
10 (2) Any nonresident who is both a citizen and resident of a
11 foreign country, if the nonresident has demonstrated a financial
12 need for the exemption. Not more than 10 percent of the
13 nonresident foreign students attending any community college

1 district may be so exempted. Exemptions made pursuant to this
2 paragraph may be made on an individual basis.

3 (3) (A) A student who, as of August 29, 2005, was enrolled,
4 or admitted with an intention to enroll, in the fall term of the
5 2005–06 academic year in a regionally accredited institution of
6 higher education in Alabama, Louisiana, or Mississippi, and who
7 could not continue his or her attendance at that institution as a
8 direct consequence of damage sustained by that institution as a
9 result of Hurricane Katrina.

10 (B) The chancellor shall develop guidelines for the
11 implementation of this paragraph. These guidelines shall include
12 standards for appropriate documentation of student eligibility to
13 the extent feasible.

14 (C) This paragraph shall apply only to the 2005–06 academic
15 year.

16 (b) A district may contract with a state, a county contiguous to
17 California, the federal government, or a foreign country, or an
18 agency thereof, for payment of all or a part of a nonresident
19 student's tuition fee.

20 (c) Nonresident students shall not be reported as full-time
21 equivalent students (FTES) for state apportionment purposes,
22 except as provided by subdivision (j) or another statute, in which
23 case a nonresident tuition fee may not be charged.

24 (d) The nonresident tuition fee shall be set by the governing
25 board of each community college district not later than February
26 1 of each year for the succeeding fiscal year. The governing board
27 of each community college district shall provide nonresident
28 students with notice of nonresident tuition fee changes during the
29 spring term before the fall term in which the change will take
30 effect. Nonresident tuition fee increases shall be gradual, moderate,
31 and predictable. The fee may be paid in installments, as determined
32 by the governing board of the district.

33 (e) (1) The fee established by the governing board pursuant to
34 subdivision (d) shall represent for nonresident students enrolled
35 in 30 semester units or 45 quarter units of credit per fiscal year
36 one or more of the following:

37 ~~(1)~~

38 (A) The amount that was expended by the district for the expense
39 of education as defined by the California Community College
40 Budget and Accounting Manual in the preceding fiscal year

1 increased by the projected percent increase in the United States
2 Consumer Price Index as determined by the Department of Finance
3 for the current fiscal year and succeeding fiscal year and divided
4 by the FTES (including nonresident students) attending in the
5 district in the preceding fiscal year. However, if for the district's
6 preceding fiscal year FTES of all students attending in the district
7 in noncredit courses is equal to, or greater than, 10 percent of the
8 district's total FTES attending in the district, the district may
9 substitute the data for expense of education in grades 13 and 14
10 and FTES in grades 13 and 14 attending in the district.

11 ~~(2)~~

12 (B) The expense of education in the preceding fiscal year of all
13 districts increased by the projected percent increase in the United
14 States Consumer Price Index as determined by the Department of
15 Finance for the fiscal year and succeeding fiscal year and divided
16 by the FTES (including nonresident students) attending all districts
17 during the preceding fiscal year. However, if the amount calculated
18 under this paragraph for the succeeding fiscal year is less than the
19 amount established for the current fiscal year or for any of the past
20 four fiscal years, the district may set the nonresident tuition fee at
21 the greater of the current or any of the past four-year amounts.

22 ~~(3)~~

23 (C) An amount not to exceed the fee established by the
24 governing board of any contiguous district.

25 ~~(4)~~

26 (D) An amount not to exceed the amount that was expended by
27 the district for the expense of education, but in no case less than
28 the statewide average as set forth in ~~paragraph (2)~~ subparagraph
29 (B).

30 ~~(5)~~

31 (E) An amount no greater than the average of the nonresident
32 tuition fees of public community colleges of no less than 12 states
33 that are comparable to California in cost of living. The
34 determination of comparable states shall be based on a composite
35 cost-of-living index as determined by the United States Department
36 of Labor or a cooperating government agency.

37 (2) *The additional revenue generated by the increased*
38 *nonresident tuition permitted under the amendments made to this*
39 *subdivision during the 2009–10 Regular Session shall be used to*
40 *expand and enhance services to resident students. In no event shall*

1 *the admission of nonresident students come at the expense of*
2 *resident enrollment.*

3 (f) The governing board of each community college district also
4 shall adopt a tuition fee per unit of credit for nonresident students
5 enrolled in more or less than 15 units of credit per term by dividing
6 the fee determined in subdivision (e) by 30 for colleges operating
7 on the semester system and 45 for colleges operating on the quarter
8 system and rounding to the nearest whole dollar. The same rate
9 shall be uniformly charged nonresident students attending any
10 terms or sessions maintained by the community college. The rate
11 charged shall be the rate established for the fiscal year in which
12 the term or session ends.

13 (g) Any loss in district revenue generated by the nonresident
14 tuition fee shall not be offset by additional state funding.

15 (h) Any district that has fewer than 1,500 FTES and whose
16 boundary is within 10 miles of another state that has a reciprocity
17 agreement with California governing student attendance and fees
18 may exempt students from that state from the mandatory fee
19 requirement described in subdivision (a) for nonresident students.

20 (i) Any district that has more than 1,500, but less than 3,001,
21 FTES and whose boundary is within 10 miles of another state that
22 has a reciprocity agreement with California governing student
23 attendance and fees may, in any one fiscal year, exempt up to 100
24 FTES from that state from the mandatory fee requirement described
25 in subdivision (a) for nonresident students.

26 (j) The attendance of nonresident students who are exempted
27 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) of
28 subdivision (a), from the mandatory fee requirement described in
29 subdivision (a) for nonresident students may be reported as resident
30 FTES for state apportionment purposes. Any nonresident student
31 reported as resident FTES for state apportionment purposes
32 pursuant to subdivision (h) or (i) shall pay a fee of forty-two dollars
33 (\$42) per course unit. That fee is to be included in the FTES
34 adjustments described in Section 76330 for purposes of computing
35 apportionments.

36 *SEC. 2. Section 76140.3 is added to the Education Code, to*
37 *read:*

38 *76140.3. (a) The Chancellor's Office of the California*
39 *Community Colleges shall make available to the Legislative*
40 *Analyst's Office all of the following data, categorized by community*

1 college district and by academic year, commencing with the
2 2009–10 academic year:

3 (1) The number of resident students, rendered both as headcount
4 and as full-time equivalent students (FTES), including an
5 identification of any resident enrollment above the district's cap.

6 (2) The number of nonresident students, rendered both as
7 headcount and as FTES.

8 (3) The per-unit nonresident tuition rate.

9 (4) The total amount of revenue received from nonresident
10 tuition.

11 (5) The total apportionment funding received by the district.

12 (b) The Legislative Analyst's Office shall include, in its annual
13 analysis of the Governor's budget proposal, a summary of the data
14 made available pursuant to subdivision (a), as well as an analysis
15 of the degree to which the affected community colleges have
16 complied with the requirements of paragraph (2) of subdivision
17 (e) of Section 76140.